

July 14, 2005

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 14th day of July 2005, at 8:00 P.M., and there were

PRESENT:           JOHN ABRAHAM, JR. MEMBER  
                      RICHARD QUINN, MEMBER  
                      ARLIE SCHWAN, MEMBER  
                      ROBERT THILL, MEMBER  
                      JEFFREY LEHRBACH, CHAIRMAN

ABSENT:           ANTHONY ESPOSITO, MEMBER  
                      WILLIAM MARYNIEWSKI, MEMBER

ALSO PRESENT:   JOHANNA M. COLEMAN, TOWN CLERK  
                      RICHARD SHERWOOD, TOWN ATTORNEY  
                      LEONARD CAMPISANO, ASSIST. BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF KENT & DOREEN ZEISZ:**

THE 1st CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Ken and Doreen Zeisz, 1723 Como Park Boulevard, Lancaster, New York 14086 for one [1] variance for the purpose of parking an oversized trailer in the front yard driveway on premises owned by the petitioners at 1723 Como Park Boulevard, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 17D.(3)(d) of the Code of the Town of Lancaster. The height of the trailer is eleven feet, six inches [11', 6"].

Chapter 50, Zoning, Section 17D.(3)(d) of the Code of the Town of Lancaster requires that a trailer which exceeds eight feet [8'] in height be stored in a rear yard or an enclosed building. The petitioners, therefore, request a three foot, six inch [3', 6"] height variance to store this trailer in their front yard driveway.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying the Village of Depew of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Kenneth Zeisz, petitioner 1723 Como Park Boulevard Lancaster, New York 14086	Proponent
Robert Smith 1762 Como Park Boulevard Lancaster, New York 14086	Proponent
Stanley Pulaski 1724 Como Park Boulevard Lancaster, New York 14086	Proponent
Virginia Riccione 83 Chauncey Street Buffalo, New York 14206	Opponent

**IN THE MATTER OF THE PETITION OF KENT & DOREEN ZEISZ**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. SCHWAN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Kent and Doreen Zeisz and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of July 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 2, (R2) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 2, (R2) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been reviewed and determined to be of local concern."

That in a survey conducted by the Zoning Board of Appeals of the Como Park Boulevard neighborhood from Transit Road to Penora Street, it has been determined that there are no other 30 foot long by 11', 6" high trailers parked in the front yard of any residential properties.

That an undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That the benefit sought by the applicants can be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the petitioners will be permitted to bring the trailer to their premises on the Wednesday or Thursday prior to that weekend's excursion and will be permitted to return it to the premises, for purposes of cleaning it, until the Tuesday following the weekend excursion. This procedure will afford the petitioner the use for which the trailer is intended.

That the requested area variance of 3 1/2 feet relief is substantial.

That the alleged difficulty is self created; the petitioner has the responsibility of knowing that the Zoning Code does not permit the storage of a vehicle of this height in a residential front yard.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.

That denial of the variance does not deprive the petitioner of the ability to utilize his recreational vehicle for the purpose for which it is intended.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the Board will now consider the  
granting of this variance request.

The question of the adoption of the foregoing resolution was duly put to a vote  
on roll call which resulted as follows:

MR. ABRAHAM	VOTED NO
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED NO
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

The resolution granting the variance was thereupon **DENIED**.

July 14, 2005

**PETITION OF JAY & CYNTHIA STASKIEWICZ:**

THE 2nd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Jay and Cynthia Staskiewicz, 151 Seneca Place, Lancaster, New York for two [2] variances for the purpose of constructing a single family dwelling on property owned by the petitioners at 422 Ransom Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9C.(3)(b)(1) of the Code of the Town of Lancaster. The width of the dwelling under construction is seventy-six feet, four inches [76',4"] on a lot which is one hundred feet [100'] wide resulting in a total width of both side yards of [23',8"].

Chapter 50, Zoning, Section 9C(3)(b)(1) of the Code of the Town of Lancaster requires the total width of both side yards to be 25% of the lot width, namely twenty five feet [25']. The petitioners, therefore, request a variance of one foot four inches [1',4"].

- B. A variance from the requirements of Chapter 50, Zoning, Section 9C.(3)(b)(1) of the Code of the Town of Lancaster. The location of the dwelling under construction will result in a south side yard set back of six feet, four inches [6',4"].

Chapter 50, Zoning, Section 9C(3)(b)(1) of the Code of the Town of Lancaster requires a ten [10'] foot south side yard set back. The petitioners, therefore, request a three foot, eight inch [3',8"] south side yard variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Jay Staskiewicz, petitioner  
151 Seneca Place  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF JAY & CYNTHIA STASKIEWICZ**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. ABRAHAM  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Jay & Cynthia Staskiewicz and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of July 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Agricultural Residential District, (AR) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Agricultural Residential District, (AR) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That the neighbor's house at 418 Ransom Road is set back a greater distance from the roadway than that of the petitioners' house causing the neighbor to view the rear portion of the south side of the petitioners' house.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance of 3',8" is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That the petitioner has agreed to mitigate any visual inadequacies.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED**.

July 14, 2005

**PETITION OF JOHN & LISA HARF:**

THE 3rd CASE TO BE HEARD BY THE ZONING Board of Appeals was that of John and Lisa Harf, 6342 Broadway, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a forty two [42] foot by twenty nine [29] foot detached garage on premises owned by the petitioners at 6342 Broadway, Lancaster New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 1,218 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioners, therefore, request an accessory use area variance of 468 square feet.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed garage is twenty three [23] feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioners, therefore, request a seven [7] foot height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

John Harf, petitioner  
6342 Broadway  
Lancaster, New York 14086

Proponent

Arlene Wierzbowski  
6336 Broadway  
Lancaster, New York 14086

Opponent

**IN THE MATTER OF THE PETITION OF JOHN & LISA HARF**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of John & Lisa Harf and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of July 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Agricultural Residential District, (AR) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Agricultural Residential District, (AR) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That this residence is larger than most residences in the area and is situated on a 32 acre parcel of land.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought; namely the storage of personal vehicles and equipment.

That the requested area variance relief is substantial, however this is mitigated by the large lot size and the distance it is situated from neighboring properties.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following conditions which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- The distance from the residence to the proposed garage is to be at least twenty feet.
- The driveway must be paved within twelve months from the completion of the garage.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED**.

July 14, 2005

**PETITION OF SCHMITTS GARAGE INC:**

THE 4th CASE TO BE HEARD BY THE ZONING Board of Appeals was that of Schmitt's Garage, Inc., William Eberhard, agent, 5255 Genesee Street, Lancaster, New York (post office, Bowmansville, NY 14026) for one [1] variance for the purpose of erecting a pole sign on premises owned by the petitioner at 5255 Genesee Street, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3] of the Code of the Town of Lancaster. There are currently two [2] pole signs situated at the premises, the petitioner proposes to erect a third pole sign.

Chapter 50, Zoning, Section 30F.(2)(c)[3] of the Code of the Town of Lancaster permits one [1] pole sign for each individual building in Commercial Motor Service (CMS) Zoning. The petitioner, therefore, requests a variance to permit two [2] additional pole signs.

- B. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster. The face area of the existing pole signs (154.38 square feet) when added to the area of the proposed pole sign (15.0 square feet) is 169.38 square feet.

Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster limits the face area of pole signs on the premises to 128 square feet. The petitioner, therefore, requests a 41.38 square foot variance of the total maximum face area permitted.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying the New York State Department of Transportation and the Lancaster Town Police of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Michael Eberhard, agent for Schmitt's Garage

Proponent

**IN THE MATTER OF THE PETITION OF SCHMITTS GARAGE**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. ABRAHAM, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. LEHRBACH  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Schmitts Garage and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of July 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the duly authorized agent of the owner or purchaser.

That the property for which the applicant is petitioning is within a Commercial and Motor Service District, (CMS) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Commercial and Motor Service District, (CMS) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action as follows:

1. *The proposed signage is along a state highway and may be subject to New York State Department of Transportation review/sign permitting. The sign may have impacts on public safety and community character by creating additional driver distraction, possible road hazard and visual "clutter" in an already confusing area including an oblique-angle intersection with Stutzman Road.*
2. *Combining signs on one standard would be optimal and certainly the automotive corporations realize dealers have more than one make of vehicle at their dealerships. Let the automotive makers waive their sign requirement for the long-term betterment of the neighborhood and Town character.*

That an undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the applicant can post this sign on an existing pole.

That the requested area variance relief is substantial.

That the proposed area variance relief will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the proposed pole sign could be distracting to drivers thereby causing traffic accidents.

That the alleged difficulty is self created.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the Board will now consider the granting of this variance request.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED NO
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED NO
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

The resolution granting the variances was thereupon **DENIED**.

July 14, 2005

**PETITION OF NORAMPAC LANCASTER DIVISION:**

THE 5TH CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Norampac, Lancaster Division, 4444 Walden Avenue, Lancaster, New York 14086, for one variance for the purpose of constructing an addition to an existing manufacturing facility on premises owned by the petitioner at 4444 Walden Avenue, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 24C.(6) of the Code of the Town of Lancaster. The location of the proposed addition would result in a 49.33 foot rear yard lot line set back at the north west corner of the proposed addition and a 37.91 foot rear yard lot line set back at the north east corner of the proposed addition.

Chapter 50, Zoning, Section 24C.(6) of the Code of the Town of Lancaster requires a fifty [50] foot lot line set back. The petitioner, therefore, requests a 12.09 foot rear yard lot line set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Steve Carmina, Architect for the petitioner  
Carmina & Wood, PC

Proponent

**IN THE MATTER OF THE PETITION OF NORAMPAC LANCASTER DIVISION**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. ABRAHAM  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Norampac Lancaster Division and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of July 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Light Industrial District, (LI) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Light Industrial District, (LI) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning on June 17, 2005 commented on the proposed zoning action; a copy of their response is on file in the Town Clerk's Office.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the adjacent properties are industrial and parkland.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the expansion is in an industrial corridor.

That the requested area variance relief is not substantial.

That the Millgrove Fire Department Fire Chief will be consulted with regard to fire protection concerns.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

That the applicant make a good faith attempt to explore avenues to protect the structure from fire hazard.

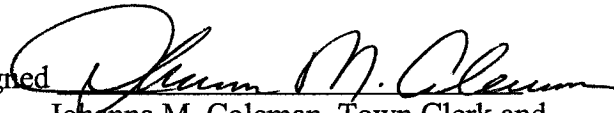
The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

July 14, 2005

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was  
adjourned at 10:08 P.M.

Signed   
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: July 14, 2005